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**USDA Releases Interim Final Rule on Indian Hemp;
Tribes Must Be in Compliance for Hemp Production in 2020**

Nov. 11, 2019 — On Oct. 31, the U.S. Department of Agriculture released the long-awaited Interim Final Rule providing for domestic hemp production. Both the 2018 Farm Bill and the Interim Rule allow American Indian tribes to develop their own tribal systems to regulate the production of hemp on their own reservations starting in the 2020 growing season. This tribal regulation is, however, conditioned upon the U.S. Secretary of Agriculture’s approval of each tribe’s regulatory plan.

The Interim Rule dictates that hemp must have levels of delta-9 tetrahydrocannabinol (THC) that are less than 0.3 percent on a dry weight basis. It also establishes minimum tribal standards for licensing, sampling, testing, and enforcement.

For tribes that choose not to claim tribal regulatory authority, the 2018 Farm Bill authorizes the USDA to begin issuing federal USDA licenses to both Indian and non-Indian growers on those reservations. The tribes need to act quickly because, under the Interim Rule, both individuals and companies can start applying for those on-reservation federal USDA hemp production licenses in the next 30 days. The USDA has agreed not to issue these licenses on a reservation where the tribe has announced its intention to submit a tribal hemp plan before the 2020 growing season.

According to a spokesperson from Fredericks Peebles & Patterson LLP, a majority native-owned law firm that has been working on the hemp legislation for more than four years, tribes will need to begin work on their tribal regulatory plans immediately if they want to be in a position to regulate and produce hemp next year.

“We have already assisted one tribe in reviving and resubmitting its plan for federal approval, and we have a meeting with the USDA to review that plan next week,” said Jeremy Patterson, Fredericks Peebles & Patterson attorney and spokesperson. “We believe this is the first American Indian tribe in the nation to accomplish that feat.”

Patterson reiterates that tribes with pending hemp plans must ensure those pending plans are in compliance with the new Interim Rule. He further noted that USDA has already notified those Tribes with submitted Plans that those Plans are likely to require significant changes in order to comply with the new, more detailed, standards imposed by the Interim Rule.

Fredericks Peebles & Patterson has offices in Sacramento, California; Louisville, Colorado; Rapid City, South Dakota; and Washington, DC. To learn more, visit www.ndnlaw.com.

Fredericks Peebles & Patterson LLP is dedicated to the representation of American Indian tribes and Native American organizations throughout the United States. Legal services include a wide spectrum of services related to Indian concerns in the areas of business transactions, litigation and governmental affairs.

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